IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ALABAMA SOUTHERN DIVISION

THE ESTATE OF MARQUETTE)
F. CUMMINGS, JR. and)
ANGELA GAINS,)
)
Plaintiff,)
)
VS.)
) CASE NO. 2:15-cv-02274-JEO
CARTER DAVENPORT,)
)
Defendant.)
)

<u>DEFENDANT'S MOTION TO STAY DISTRICT COURT PROCEEDINGS</u> <u>PENIDNG RULING FROM U.S. SUPREME COURT ON PENDING PETITION</u> FOR WRIT OF CERTIORARI

COMES NOW the Defendant and moves the Court for a stay of district court proceedings pending a ruling on a petition for writ of certiorari to be filed in the United States Supreme Court arising out of this case. The petition was filed on March 11, 2019. (See Exhibit 1). The Plaintiff requested additional time to file a response to the petition. (See Exhibit 2). Normally, the Supreme Court can be expected to rule upon pending petitions for a writ of certiorari before its summer recess, in June.

It is in the best interest of the parties and judicial economy that this stay be granted. If certiorari is denied, the parties can begin discovery then. On the other hand, if discovery and motion practice proceeds apace, and then the Supreme Court grants certiorari, a wasting of resources could result. The undersigned attorney anticipates that the discovery could be very time-consuming and expensive in this case since the issues and defenses presented involve the testimony of medical professionals and the production

of medical records. It is my understanding that one of the primary doctors involved no longer resides in Birmingham, Alabama, but now resides and practices in New York City. Additionally, the issues in this case could require the retention of medical experts in addition to the medical professionals who would be fact witnesses.

WHEREFORE, based upon the foregoing, the Defendant respectfully requests that the Court stay further proceedings in district court pending a ruling from the United States Supreme Court on a petition to file a writ of certiorari to be filed by Defendant on or March 9, 2019.

Respectfully submitted,

Steven Marshall Attorney General

Carrie McCollum General Counsel

/s/ Bart Harmon
Bart Harmon (HAR127)
Assistant Attorney General

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of March, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following (or by U.S. Mail to the non-CM-ECF participants):

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